

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

I. D. #5825

RESOLUTION E-4001

August 24, 2006

RESOLUTION

Resolution E-4001 extends to all IOUs policies discussed and adopted on April 13, 2006, in Resolution E-3968 for San Diego Gas and Electric (SDG&E) with respect to Electric Rule 20 overhead to underground conversions.

SUMMARY

The Commission implements policies related to Electric Rule 20 Advice Letter filing, approval and use of Rule 20A funds, and overhead facilities conversions classify as capital franchise spending.

The Commission implements the following Electric Rule 20 filing requirements:

- Electric utilities shall file future Advice Letters for deviations from Electric Rule 20, Replacement of Overhead with Underground Electric Facilities, no later than three months before the project commencement date. Project commencement date is defined as the date construction begins.
- Electric utilities shall not commit to project costs for an overhead conversion project that requires borrowing more than five years of a community's Electric Rule 20A allocations without Commission's approval. Without Commission approval allowing otherwise, either pre-arranged community funds or utility shareholders shall pay the costs over accumulated allocation plus 5 years of borrowing.
- Requirements specified in this resolution only apply to overhead conversion projects where construction is scheduled to begin more than 90 days after the date the Commission adopts this resolution and this resolution does not apply to current overhead conversion projects in which constructions have already in progress.

BACKGROUND

Utilities annually allocate funds under Rule 20 to cities and unincorporated areas of counties to convert overhead electric and telecommunication facilities to underground, and recipients may either bank (accumulate) their allotments, or conversely choose to borrow (mortgage) their undergrounding allotments for five years at most.

The Commission instituted the current undergrounding program in 1967. It consists of two parts. The first part, under Tariff Rules 15 and 16, requires new subdivisions (and those that were already undergrounded) to provide underground service for all new connections.

The second part of the program governs both when and where a utility may remove overhead lines and replace them with new underground service, and who shall bear the cost of the conversion. Tariff Rule 20 is the vehicle for the implementation of the underground conversion programs. Rule 20 provides three levels, A, B, and C, of ratepayer funding for the projects.

Under Rule 20, the Commission authorizes the utility to spend a certain amount of money each year on conversion projects and the utility records the cost of each project in its electric plant account for inclusion in its rate base upon completion of the project.¹ Then the Commission authorizes the utility to recover the cost from ratepayers until the project is fully depreciated.

Because ratepayers contribute approximately 80% through utility rates in Electric Rule 20 A programs, the projects must be in the public interest by meeting one or more of the following criteria:

- Eliminate an unusually heavy concentration of overhead lines;
- Involve a street or road with a high volume of public traffic;
- Benefit a civic or public recreation area or area of unusual scenic interest;
- Be listed as an arterial street or major collector as defined in the Governor's Office of Planning and Research (OPR) Guidelines.

On January 6, 2000, the Commission opened Order Instituting Rulemaking (OIR) 00-01-005 to implement Assembly Bill 1149 regarding undergrounding of electric and telecommunication facilities. On December 11, 2001, the Commission issued Decision (D.) 01-12-009 in Phase I of the OIR directing expanded use of Rule 20 funds. Once a community has established a master undergrounding plan and identified a specific project area, it may mortgage its allotment for a total of five years.

Utilities may file Advice Letters to the commission request exemption to the tariff rules.

NOTICE

Publication in the Commission's Daily Calendar is not required.

¹ Utilities allocate an annual budget for undergrounding within a city or the unincorporated area of a county. Specific details of allocation formulas are shown in Electric Rule 20.A.2 of the tariffs.

PROTESTS

The Commission has received no protests.

DISCUSSION

The Commission sets new policies to provide a fair opportunity for ratepayers in communities to participate in conversion projects within a reasonable length of time.

Fair Opportunity for All Commercial and Residential Customers in Communities to Participate in Overhead Conversion Projects

Decision (D.) 01-12-009 limits communities to borrow five years into their annual conversion allocations. This is a balance between the advantages in cost savings and project administration associated with completing an overhead conversion project in a single phase, and the disadvantages of there being an excessive length of time before residential and commercial customers in a community would have the opportunity to participate in another overhead conversion project.

Late Filings may Nullify Impacts of CPUC's Decisions on Exemption Requests

A utility may request an exemption to Electric Tariff Rule 20. However, if the Advice Letter is filed after the commencement of an overhead conversion project, the Commission's decision to either grant or deny this request would not prevent the completion of the project because the utility may have partially or fully funded the project. This would put the Commission in the awkward position of choosing which ratepayers to disadvantage, as discussed next.

No outcome is fair to ratepayers when a utility grants an exception to the 5-Year Cap

Utilities control whether communities incur Rule 20 project costs in excess of the established 5 year cap on borrowing. Commission approval of more than 5 years of borrowing to fund a project already underway, diverts from other customers within the responsible community Rule 20 funds otherwise available to them, in years 6 and beyond, for other Rule 20 conversion projects in that community.

Commission denial of such an Advice Letter request for more than 5 years of borrowing, after the commencement of a conversion project and after the funds have been committed or spent, rewards the subject community with an additional allocation. A denial would prevent the requesting utility from allocating to the responsible community the costs in excess of five years of allocations.

Instead, this Resolution, excess costs would be spread across all of the utility's ratepayers,. The franchise allows the utility to install facilities in the public right of way but if they later conflict with public improvements, the utility must relocate them at ratepayer expense. It may record and recover this expense from all ratepayers as street and highway repair work (capital franchise spending) in rate base.

Conclusion

Electric utilities may not submit their exemption requests after the commencement of projects when the projects have already been funded. We do not allow such undergrounding conversion cost over-runs to flow into rate base faster than current policy allows. Therefore

- Electric utilities shall file future Advice Letters for deviations from Electric Rule 20, Replacement of Overhead with Underground Electric Facilities, no later than three months before the project commencement date. Project commencement date is defined as the date construction begins.
- Electric utilities shall not commit to project costs for an overhead conversion project that requires borrowing forward more than five years of a community's Electric Rule 20A allocations without Commission's approval. Without Commission approval allowing otherwise, either pre-arranged community funds or utility shareholders shall pay costs beyond accumulated allocations plus 5 years of borrowing.
- Requirements specified in this resolution only apply to overhead conversion projects where construction is scheduled to begin more than 90 days after the date the Commission adopts this resolution and this resolution does not apply to current overhead conversion projects in which constructions have already in progress.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from the mail date of July 6, 2006..

PacifiCorp submitted the following comments/questions to the Energy Division on July 17, 2006:

- Certain communities may have requested and received more assistance than their accumulated allocation in the past. Therefore, they have "negative balances".
- Is the intent that all requests from these communities require an advice filing for as long as the credit requested exceeds the sum of the past expenditures in excess of allocations plus 5 years of future-borrowing? Or is the intent to treat these overdrafts as zero, and require an advice letter request based on just the 5 years of future-borrowing?

Communities which have received more Rule 20A funds than their accumulated allocation in essence, have borrowed forward into their future allocations. A utility may not approve new Rule 20A projects for a community until funding has restored its balance to less than 5

years negative, normally using Rule 20 annual allocations. Utilities may not nullify these overdraft balances.

Southern California Edison (SCE) submitted the following comments on July 17, 2006:

- The final resolution should include a statement indicating that the new requirements will only apply to projects where construction is scheduled to begin more than 90 days after the date the Commission adopts the final resolution and that such final resolution does not apply to current projects. This permits SCE ample time to file any necessary Advice Letters at least three months before commencing the affected projects.
- Project commencement date should be the date construction begins.
- Rule 20A provisions do not govern franchise agreements. Therefore, the original Ordering Paragraph related to overhead conversion projects resulting from franchise agreement improvement projects should be stricken from the final resolution.

Project commencement date could be defined as the date construction begins. However, since contracts and cost commitments for construction are usually already made by the time construction begins; without Commission approval allowing otherwise, either pre-arranged community funds or utility shareholders shall pay costs beyond accumulated allocation plus 5 years of borrowing. Utilities may not recover this amount in ratebase.

Pacific Gas and Electric (PG&E) submitted the following comments on July 28, 2006:

- Resolution E-4001 should be applied prospectively. There may be some communities that mortgaged future Rule 20A allocations beyond the current limit of five years. PG&E recommends that the proposed resolution should be applied prospectively and should not disturb those long standing agreements.
- The proposed advice letter deadline need to be more flexible. It may not be apparent 90 days prior to the project commencement date that the project will need additional participation beyond the five-year mortgage limit. Every underground construction project involves some mystery – not all of the circumstances can be known in advance because virtually all of the construction site is hidden by asphalt and dirt. There may be difficult natural soil conditions (e.g. hard rock, underground springs, et cetera), man-made contamination (e.g. hazardous materials), unanticipated underground facilities (e.g. old streetcar tracks, storm drains, water lines, et cetera) that must be traversed or removed. Additionally, because underground conversion projects involve so many other participants, a delay by any one of them will often delay the project schedule and add to project costs beyond that originally anticipated. In all of these cases, construction will have already started before the cost increasing circumstance is encountered. As a consequence, the pre-construction deadline will have long since passed. If the utility is precluded from later filing an advice letter to seek additional mortgage authority, there will be few alternatives for the community and the property owners – suspend construction and further delay the project until new annual allocations are announced or establish a property assessment to shift some project costs on to local taxpayers. Neither alternative seems reasonable or fair under the circumstances. Therefore, PG&E recommends that if it was known from the outset that a project, as designed, will require more than five years of Rule 20A allocation mortgaging, the utility must file an advice letter seeking additional authority in advance of construction. Additionally, if the legislative body proposes to change the project boundary or change the scope of the work in such a way as to exceed the five-year

mortgage limit, the utility may not agree to such changes without first obtaining CPUC authority so to do. However, where cost increases are the result of circumstances discovered after construction has commenced and which could not reasonably have been foreseen by the utility, such utility should be able to continue construction provided it files an advice letter within 90 days that the circumstance became manifest and the costs become known.

- Undergrounding project undertaken in-lieu of franchise relocation should be exempted from the mortgage limit. A community may have a road widening or storm drain, or scenic highway project that requires the relocation of utilities. It may be that, in this case, rather than relocate the utilities overhead to overhead, it is more efficient to relocate underground. However, if the community has exhausted its accumulated allocations and mortgaging capacity, it would not be able to take advantage of the engineering efficiencies to underground in lieu of relocating overhead. The alternative would be to either relocate the facilities overhead despite the obvious inefficiency or to delay the other public improvement (e.g. road widening) until additional Rule 20A allocations have accumulated. PG&E recommends that in cases where state law, efficient engineering or other circumstances dictates that relocated utility facilities be placed underground, the cost of this mandated undergrounding should be exempt from the five-year mortgage limit. The utility would still be required to file an Advice Letter as soon as practicable after the decision by the local agency so there is a documented record of the additional allocation borrowing but the increase in the mortgage authority would be automatic authorized in order to comply with the franchise or other statutory requirements in the most efficient manner.

As we response to PacifiCorp's comment/question, An utility may not approve new Rule 20A projects for a community until funding has restored its balance to less than 5 years negative, normally using Rule 20 annual allocations. Utilities may not nullify these overdraft balances.

The Commission understands that there may be different environmental and human factors that lead to cost overruns of an overhead conversion project, and exceed the five-year mortgage limit. Hence, a community should conduct adequate investigations and planning prior to committing funds to an overhead conversion project. The Commission can not allow an utility to continue construction on an overhead conversion project and to commit ratepayers' funds while waiting for the Commission to investigate and to approve the request. Furthermore, project cost overruns is not a justifiable reason for Rule 20A funds to flow into rate base faster than current policy allows, or excessive length of time before other residential and commercial customers in a community would have the opportunity to participate in another overhead conversion project.

The Commission also acknowledges PG&E's advice to take advantage of the engineering efficiencies to underground in lieu of relocating overhead. However, as we discussed above, the Commission can not allow unlimited borrowing by communities and spread the costs to all ratepayers.

FINDINGS

1. The Commission instituted the current undergrounding program in 1967.
2. Tariff Rule 20 is the vehicle for the implementation of the underground conversion programs. Rule 20 provides three levels, A, B, and C, of ratepayer funding for the projects.
3. Rule 20.A projects must be in public interest.
4. The city or unincorporated area of a county may mortgage its allotment for a total of five years.
5. Ratepayers collectively pay through utility rates approximately 80% of the costs Rule 20.A projects.
6. The Commission implements new policies to provide opportunities for all ratepayers in communities to participate in conversion projects within a reasonable length of time.
7. The Commission should deter utilities from late filing of Electric Rule 20 exemption requests that place the Commission in the awkward position of choosing which ratepayers to disadvantage.
8. Requirements specified in this resolution only apply to overhead conversion projects where construction is scheduled to begin more than 90 days after the date the Commission adopts this resolution and this resolution does not apply to current overhead conversion projects in which constructions have already in progress.

THEREFORE, IT IS ORDERED THAT:

1. Electric utilities shall file future Advice Letters for deviations from Electric Rule 20, Replacement of Overhead with Underground Electric Facilities, no later than three months before the project commencement date. Project commencement date is defined as the date construction begins.
2. Electric utilities shall not commit to project costs for an overhead conversion project that requires borrowing forward more than five years of a community's Electric Rule 20.A allocation without Commission's approval. Without Commission approval allowing otherwise, either pre-arranged community funds or utility shareholders shall pay costs beyond accumulated allocation plus 5 years of borrowing.
3. Requirements specified in this resolution only apply to overhead conversion projects where construction is scheduled to begin more than 90 days after the date the Commission adopts this resolution and this resolution does not apply to current overhead conversion projects in which constructions have already in progress.
4. This Resolution is effective today.

I hereby certify that the Public Utilities Commission adopted this Resolution at its regular

meeting on August 24, 2006. The following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director